

REMARKS

Claims 1-17 are currently pending. By this amendment, Claims 18 – 20 are canceled, Claims 1, 3, 10 and 23 are amended, and Claims 26 – 29 are newly added.

I. Double Patenting

In response to the provisional double patent rejection based on Application No. 11/116,497, Applicant encloses a terminal disclaimer.

II. Election/Restriction

Applicant confirms the election of Claims 1 – 17 and 21-25 made via telephone. Claims 18 – 20 have been canceled and resubmitted in a divisional application.

III. Claim Rejections Under 35 USC § 103

All claims have been rejected as obvious in view of the prior art. In particular:

Claims 1-3, 5-10, 21-22 and 23-25 have been rejected as being unpatentable over Nielson U.S. 5,439,289 in view of Levine U.S. 4,637,221. The Office Action cites Nielson as teaching all of the subject matter of the claims “except for the teaching of having a nozzle and a corresponding method whereby the nozzle is directed to rinse the splash shield lid cover.” Levine is cited as teaching a mixing device having an “integrated automatic spray head which may be used to spray and clean the surfaces of the mixer element and mixing vessel which has food debris such that it is ready for a subsequent use.” Although Levine does not describe using a spray head to spray a splash shield, the Office Action states that it would be obvious from the teachings of Levine to modify Nielson to provide a spray head directed at “any and all surfaces of the mixing chamber in which residual food may reside, including the lid 16 of Nielson”

Claims 4 and 11 – 17 have been rejected as unpatentable over Nielson in view of Levine, and further in view of Harr U.S. 1,090,148. The Office Action cites Harr as teaching “a lid 21 which is movable mounted upon a shaft by a spring 22 such that it may be disengaged from a lower position shaft member position in order to bias the lid.”

Claim 1 as amended recites that the mixing machine has a holder for receiving the vessel at an access location in the mixing machine, and the step of directing rinsing fluid onto the splash shield using the nozzle while shielding the access location from the rinsing fluid. In one example of an embodiment described in Applicant’s specification, the rinsing occurs in a rinse chamber that is shielded from the location from which the user retrieves the cup 14 from the cup holder 16. This allows thorough rinsing of the splash shield and/or other components (e.g. the shaft and/or the mixing element) without creating a

mess in the portion of the machine that is accessed by a user preparing a drink. The features of Claim 1 carry through to Claims 2 – 9, 21, 22 and 26 - 28 which are dependent on Claim 1.

The Nielson reference does not include any teachings concerning rinsing of the splash shield. For this reason, Nielson does not teach the step of directing rinsing fluid onto the splash shield using the nozzle while shielding the access location from the rinsing fluid as recited in Claim 1. This step is likewise missing from Levine. According to Levine's method, ice cream and condiments are scooped into a funnel 21. The mixer 26 passes into the funnel 21, mixing the contents and pushing the contents into a cup in holder 42. Afterwards, the spray nozzle 40 sprays rinse fluid onto the mixer 26. The fluid flows into the funnel 21 thereby rinsing the funnel 21, and then passing to the cup holder 42 which is disposed in a sink 43 having a drain. In the Levine machine the rinse fluid flows through a funnel 21 that is oriented in longitudinal and axial alignment with the cup holder 42 that is mounted in the sink 43 that receives spent wash water. Thus the rinse water is specifically and purposefully directed to pass through the cup holder 42 on the way to the sink 43, rather than being shielded from it. Since Levine does not provide the teachings missing from Neilson, Claims 1– 9, 21, 22 and 26 - 28 are patentable over the cited references.

Claim 10, as amended, recites a rinse chamber in the mixing machine, the rinse chamber having an entrance and a door moveable to a closed position covering the entrance. The cited references do not disclose such a feature, nor is there a fair suggestion for modifying the references to include this feature. Thus, Claims 10-17 and 29 are allowable.

Claim 23 as amended recites an access location in the mixing machine, the vessel positionable at the access location in preparation for mixing of the vessel contents and retrievable from the access location following mixing; and a barrier moveably positioned to shield the access location from rinse fluid. Claims 24 – 25 are dependent on Claim 23 and thus also include these features. For reasons set forth above, these features are absent from the cited references, and there is no fair suggestion for modifications to the cited references to include these features.

Respectfully submitted,

STALLMAN & POLLOCK LLP

Dated: April 25, 2006

By: Kathleen A. Frost
Kathleen A. Frost
Reg. No. 37,326

Attorneys for Applicant(s)